IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2602 of 2001

Between:

Sk.Abdul Sattar S/o.Sk.Mastan Saheb, aged: 52 years, Occu:Private employee, D.No.17-21-38, Pezzonipet, Vijayawada.

... PETITIONER

AND

1) The A.P.State Financial Corporation, Pioneer house, 3rd floor, Labbipet, Vijayawada, rep.by its Branch Manager.
2) G.Ramanamma W/o.G.Basurao, 2nd line Bavajipet, Vijayawada.
3) Tappita Kamalamma W/o.late T.Das, age:60 yrs, Retd.Teacher, R/o.17-21-21, Pezzonipet, Vijayawada.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in bringing the schedule mentioned property situated at item No.2 mentioned under the category of collateral securities described as a residential house situated in 472 Sq.yards in D.No.17-21-21, Pezzonipet, Vijayawada for open auction and calling for the sealed tenders from the public vide notification dt.8-12-2000 published i n Eenadu Telugu daily newspaper, as arbitrary, illegal, due to non application of mind and violative of Article14 of the Constitution of India and set aside the same.

Counsel for the Petitioner:MR.P.RADHAKRISHNA

Counsel for the Respondent No.1 : MS Y.N.LOHITA

Counsel for the Respondent No.3: MR.V.S.R.ANJANEYULU
Counsel for the Respondent No.2: Notice sent returned unserved

The Court made the following :

O R D E R:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioner, who is a collateral security holder, filed this writ petition, *inter alia,* seeking to assail the action of the first respondent in proceeding against the item No.2 mentioned in the category of collateral securities for auction for the purpose of realizing the amounts due from the principal debtors.

The case of the petitioner in brief is that no doubt he is the owner of the property and had given the said property as security to the loan obtained by the second respondent on her request and also on her promise that she would clear the dues. However, having regard to the default committed by the second respondent against the property belongs to the petitioner and for no fault of the petitioner, he was put to irreparable loss and hardship. Hence the writ petition.

The learned standing counsel appearing for the first respondent submits that in view of the default committed by the second respondent, the entire procedure as contemplated under the statute has been violated and the corporation is proceeding against the property which was given as security for the purpose of realization of the loan amount. Further, it is also their case that due notices have been given to all, including the petitioner, and thus, there is no illegality or any statutory violation.

Having considered the submissions made and also on perusal

of the record, it is seen that except making a bald allegation, the petitioner has not made out unreasonableness, nor has shown any statutory violation, as contemplated under the principles laid down by the apex Court in **STATE FINANCIAL CORPORATION v. M/S. JAGADAMBA OIL MILLS**[1]. Hence, in view of the same, the petitioner is not entitled to seek indulgence of this Court under Article 226 of the Constitution of India. Having given the property as security for the loan, the petitioner is equally liable for any such action initiated for discharge of the liability and the property under security can be proceeded against. Hence, I do not find any merits in the writ petition.

Writ petition is accordingly dismissed. No costs.

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21st September, 2004

pan/ghn

To

1) The Branch Manager.
A.P.State Financial Corporation,
Pioneer house, 3rd floor, Labbipet, Vijayawada,
2) Two CD copies.

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[1] AIR 2002 SUPREME COURT 834